

MELINDA HAAG (CABN 132612)  
 United States Attorney

J. DOUGLAS WILSON (DCBN 412811)  
 Chief, Criminal Division

TIMOTHY J. LUCEY (CABN 172332)  
 Assistant United States Attorneys

150 Almaden Boulevard, Suite 900  
 San Jose, California 95115  
 Telephone: (408) 535-5054  
 FAX: (408) 535-5061  
 E-Mail: timothy.lucey@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

**FILED**

APR 07 2014

RICHARD W. WIEKING  
 CLERK U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE

UNITED STATES OF AMERICA,	)	CASE NO. CR 14 – MJ – 70298 PSG
Plaintiff,	)	STIPULATION AND <del>[PROPOSED]</del> ORDER
v.	)	
KISHORE PALLAPOTHU,	)	
Defendant.	)	

With the agreement of the parties, and with the consent of the defendant, the Court enters this order continuing the date for a preliminary hearing or arraignment on an indictment as well as a concurrent status hearing as to the terms and conditions of the defendant's bond, from Monday, April 14, 2014, to Wednesday, May 28, 2014, at 8:30 a.m., before the duty magistrate judge, as well as documenting the defendant's waiver of the time to conduct a preliminary hearing under Federal Rule of Criminal Procedure Rule 5 as well as the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, from March 13, 2014, up to and including May 28, 2014.

////

STIPULATION AND ~~[PROPOSED]~~ ORDER  
 CR 14 – MJ – 70298 PSG

1 The parties mutually agree, and the Court finds and holds, as follows:

2 1. The defendant is currently out of custody on an unsecured bond subject to various terms and  
3 conditions set by this Court.

4 2. The defendant agrees to an exclusion of time under the Speedy Trial Act based upon the need  
5 for defense counsel to consult with the defendant as well as review discovery in order to effectively  
6 prepare in the context of attempting to resolve this matter prior to indictment.

7 3. Counsel for the defendant further believes that postponing the preliminary hearing is in his  
8 client's best interest and that it is not prejudicial for the defendant to provide the United States with  
9 additional time to indict the case.

10 4. The Court finds that, taking into the account the public interest in the prompt disposition of  
11 criminal cases, these grounds are good cause for extending the time limits for a preliminary hearing  
12 under Federal Rule of Criminal Procedure up to the mutually agreed upon date of May 28, 2014.

13 5. Given these circumstances, the Court finds that the ends of justice served by excluding the  
14 period from March 13, 2014, up to and including May 28, 2014, outweigh the best interest of the public  
15 and the defendant in a speedy trial and ensure effective preparation of counsel. *Id.* § 3161(h)(7)(A) and  
16 (B).

17 6. Accordingly, and with the express consent of the defendant, the Court (1) sets the matter for a  
18 preliminary hearing and/or arraignment on an indictment for **Wednesday, May 28, 2014, before the**  
19 **duty magistrate judge at 8:30 a.m.**; (2) sets the matter for a review of the terms and conditions of the  
20 defendant's bond for **Wednesday, May 28, 2014, before the duty magistrate judge at 8:30 a.m.**; and,  
21 (3) orders that the period from March 13, 2014, up to and including May 28, 2014, be excluded from the  
22 calculations of time for a preliminary hearing to be conducted under Rule 5 of Federal Rules of Criminal  
23 Procedure as well as the calculation of time under the Speedy Trial Act at 18 U.S.C. § 3161(h)(7)(A),  
24 and § 3161(h)(7)(B)(iv).

25 7. As the disposition the parties are contemplating may include cooperation, the parties jointly  
26 request that this Stipulation and Proposed Order be filed and maintained under seal, except that copies of  
27 this pleading may be provided to the United States Attorney's Office and counsel for the defendant.

28 ///

Accordingly, the parties mutually agree and hereby stipulate that the time from March 13, 2014, through and including May 28, 2014, may be excluded from the computation of time within which an information or indictment shall be filed under the Speedy Trial Act, in order to ensure the reasonable time necessary for effective preparation, pursuant to Title 18, United States Code Section 3161(b), (h)(7)(A), (h)(7)(B)(iv), as well as a mutual stipulation to waive time for an indictment or preliminary hearing, pursuant to Rule 5.1 of the Federal Rules of Criminal Procedure, up to and including May 28, 2014, based on the need for effective preparation of counsel.

**IT IS SO STIPULATED.**

Dated: April 4, 2014

/s/  
TIMOTHY LUCEY  
Assistant United States Attorney

Dated: April 4, 2014

/s/  
EDWIN PRATHER  
Attorney for Defendant  
KISHORE PALLAPOTHU

**IT IS SO ORDERED.**

DATED: 4.7.14

*RES. [Signature]*  
~~HON. HOWARD R. LLOYD~~ Paul S. Enright  
United States Magistrate Judge